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No. 84-1994

IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

MAYNARD N. LONDON,
Petitioner,

v.

MANHATTAN LIFE CORPORATION, *et al.*,
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

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RESPONDENTS' BRIEF IN OPPOSITION

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QUESTION PRESENTED

The only question fairly presented by Petitioner is whether this Court should review the determination of the Fourth Circuit that the District Court properly granted summary judgment to defendants, both courts having viewed the facts in the light most favorable to Petitioner and having applied state law to those facts.

STATEMENT REQUIRED BY RULE 28.1

Respondent Manhattan National Corporation (f/k/a Manhattan Life Corporation) and Respondent Manhattan Life Insurance Company are affiliates of the following corporations:

Manhattan National Life Insurance Company
Manhattan Capital Management Corporation
Grosten Group Insurance Agency, Inc.

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RESPONDENTS' BRIEF IN OPPOSITION

Respondents Manhattan Life Corporation, *et al.*, respectfully request that this Court deny the Petition for Writ of Certiorari seeking to review the judgment and opinion of the United States Court of Appeals for the Fourth Circuit.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Fourth Circuit is reproduced at Appendix 19 through 21 of the Petition. The opinion of the United States District Court for the District of Maryland is reproduced at Appendix 22 through 38 of the Petition.

JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATEMENT OF FACTS

Petitioner's statement is inaccurate and incomplete, but that is irrelevant to the question before the Court. It is sufficient to note that this is a suit for the misappropriation in 1980 of an idea for a life insurance policy alleged to have been disclosed in 1968. After full discovery and briefing, the District Court granted summary judgment based on the determination that the facts, taken in the light most favorable to plaintiff, could not support a recovery under Maryland law. Judge Northrop reaffirmed his conclusion in an order entered on a motion for rehearing. In affirming per curiam, the Fourth Circuit determined that the District Court "resolv[ed] all conflicting inferences and disputed facts in favor of London" and appropriately entered judgment for the defendants. (App. 21)

REASONS FOR DENYING THE WRIT

Respondents Manhattan National Corporation, Manhattan Life Insurance Company and Donald M. Fordyce respectfully suggest that the Petition raises no issue that warrants review. No undecided significant question is presented, no conflict among the Circuits exists, and the opinions below are in accordance with well-established law.

Although he attempts to suggest that this Court adopted an unconstitutional rule when it adopted Fed. R. Civ. P. 56 and allowed summary judgment to be used in the federal courts, Petitioner's real and only complaint is that the decisions of the District of Maryland and the Fourth Circuit are incorrect on the facts of this case. He offers no reason why certiorari is justified (Rule 17) and the opinions below demonstrate that none exists.

His petition is simply an abbreviated version of his briefs on the merits below which have already been rejected by two federal courts. No reason appears why this Court should afford yet another review of London's arguments.

CONCLUSION

The Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

/s/ Sheila J. Carpenter
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Dated: July 18, 1985